IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.1106 OF 2004

Shukat Khalil Khan ...Appellant

Vs.

Municipal Corporation of
Greater Mumbai ...Respondent

Mr.P.G.Sawant for the Appellant
Mr.J. Xavier for the Respondent-B.M.C.

CORAM: A.S.OKA, J.
DATED: JANUARY 17, 2005.

P.C.:

1. By the impugned order the learned Trial Judge has declined to grant ad-interim relief in favour of the Appellant. From 23rd November 2004 there is no ad-interim relief granted by this Court in the present Appeal. The learned Counsel for the Appellant states that the structure in question is still in existence. The learned Counsel for the Respondent states that he has no instructions so far as existence of the structure is concerned.

2. After having heard the parties and perusing the documents on record, I find no fault with the approach of the learned Trial Judge. Considering the averments made in the plaint, no case is made out for grant of ad-interim relief.

3. Appeal is dismissed with no order as to costs.

4. It is obvious that Notice of Motion will be decided by the learned Judge without being influenced by the ad-interim order and confirmation thereof by this Court. Hearing of the Notice of Motion is expedited. The Trial Court will dispose of the Notice of Motion finally within eight weeks from today.

Judge.